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THE
FRUITS OF REFLECTION;

OR,
SECOND THOUGHTS ARE BEST.

A little Tract relating to Prince Edward Island.

BY J. B. PALMER.

*"Never trouble thyself; a wull go a rawging some-
times, and there's an end on it:—a wull come home again
I warrant in."*

HOB IN THE WELL.

PICTOU:

Printed at the Colonial Patriot Office.

1827.

*This was printed where J. B. Palmer had
not the opportunity of correcting the proof
himself, it is full of inaccuracies.*

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THE
FRUITS OF REFLECTION, &c.

WITHOUT any formal preface I beg leave to submit the following narrative and remarks to the inspection of the public; now that the General Election fever has subsided and tranquil reflection resumed its place.

For some years before and after my first arrival in this island, which was in the year 1802, a habit had obtained here of strangling the characters of practitioners of the law; it was carried on with no small degree of science; there were but two (sometimes three) Gentlemen of the Bar here; rapine and monopoly prevailed much in the colony, and if the devotees of that system could stifle opposition at the Bar, they had little else to conquer or to fear; the object of the famous fee act is too plain to render any comment on it necessary. Yet it did not operate altogether as an absolute prohibition; from time to time individuals of the Profession would do their duty toward their client with zeal and integrity, the wreath of the opposing party was in such case first offered to them; they refused to wear it, and immediately felt the rod; they were accused of misconduct; affidavits were filed, applications were made; incendiaries blew the trumpet of slander;—left-handed and back stair influence were

used, and one man after another was driven out of the island.

There is no general rule without an exception, however, and though I have been pretty well roasted and basted, yet I still remain *un-cut-up*, owing possibly in some measure to my stubbornness, but far more likely to the increase of practitioners at the Bar, which renders the game of *gagging* less advantageous and more difficult to be played than it formerly was; and our juries have become far more intelligent and less factious or intimidated, than in former times. "What is bred in the bone is not easily taken out of the flesh;" and we are still fated to look (I hope with charity) at the occasional convulsive gasps of the old *regime*, notwithstanding the futility of their endeavours under our present happy system of jurisprudence, which was most prominently exhibited in the proceedings of the Supreme Court of judicature, at its last Trinity Term.

The same system of attack has frequently been directed against such Members of the House of Assembly, as have occasionally exerted themselves in the discharge of their public duty, and at Elections it has shone most conspicuously—I speak feelingly.

The last exhibition of this nature was at George Town. I might probably have silently and slyly *glided* in for that place—but I hate to follow a bad example, and I took the opposite course, publicly offering myself as a candidate; several of my friends accompanied me from Charlotte Town to that neighbourhood on the evening of the twentieth day of August last; the following day was deluged with incessant rain, and as there was no road to George Town we were obliged to scramble there along-shore—by land and water—at high tide, so that we were all nearly as wet as if we had swam there. Mr. Lewellyn was proposed by Mr. Richards, the clerk under Mr. Thomas Owen, and seconded by Mr. Sims. the undersheriff.

I was proposed by Captain Butterfield, and seconded by Mr. Nelson. The purport of my address as well as I can recollect, was as follows—Congratulating the country on the multitude of persons assembled either to support or oppose me;—threats, I understood, had deterred some of my well-wishers from attending, and there were many persons present who had come from different parts of the Island, for the purpose of hearing argument on both sides. I entreated that those who might hear arguments would treasure them in their memory, report them as far as practicable through the country; and induce other persons again to repeat that report in order that thus the meeting and opposition of the day might be the means of informing the Colony at large of its real state, which had been artfully concealed from many of its inhabitants.

I said that my opponent, as a candidate, was a gentleman little known to me, but of whom I had heard a most favourable character: I believed him to be a man of ability, and if I thought that in the present alarming state of the Island he could render it more service in the House of Assembly than myself, I should be the first man to support him, but never were practical experience and minute local knowledge more necessary to be used than at this critical period, when our public finances stood at a melancholy ebb, unexampled in this Colony; when our taxes, improvidently raised, had been lavished away, our treasury drained and groaning under monstrous incumbrances, and our private resources each day becoming more inefficient. This opinion was rapidly spreading in the country at large; it was testified by the signatures of several thousand persons to a petition which would shortly be presented to his Excellency, praying for a dissolution of the present House of Assembly. At a future period, I should very probably be anxious to support Mr. Lewellyn, but

at present I possessed advantages to which he must be a stranger. This, I said might be considered egotism; it was bold language, and such, as I should consistently be prepared to support, but I held in my hand the printed copy of the warrant book containing accounts of payments made by the treasury from 15th October, 1825, to the 6th March, 1827; an account of this nature had been originally furnished at my instance on a former occasion when I was at an election accused of fingering the public purse, and refuted the accusation with as much ease as I could refute any other imputation upon my public conduct; continuing my address, I went into charges in the warrant book during the foregoing period from 1825 to last March, made for services not heretofore charged upon the public,—for instance £200, to the Speaker of the House of Assembly; £800 to the Lieutenant Governor, half thereof before he had taken almost any active step in his Government;—£100 to Mr. Hurd for corresponding with the commissioners of roads; £16 12 2 for general dispatches and stationary for private secretary's office; £5 for the messenger to do. £290 and upwards, for Fanning's bank; £150 for the first year's rent of Government House; the unexampled charge of £1200 for the Assembly besides £60 for books for do. now in the Attorney General's office, and the expenses of the ornaments of a seat in church, *independent of printing*, I had chosen but a few prominent charges,—the *warrant book* was well worthy of investigation at leisure, in some trivial instances the committee of investigation had been wonderfully economical particularly if the Surveyor Gen. was concerned in the charge, but when £50 had been allowed to one John Stewart for a single trip with the mail for Pictou, in his schooner, when £5 was Mr. Smith's usual charge for the same service, we have no explanation as to the cause of the difference, which was this, that the

schooner took his Excellency across on his passage to England; so we paid to the Governor and his new establishment more than £700 a year, during the time that he had remained with us (for he had not yet been here two years) and we paid £50 for sending his Excellency away from us.

I said that the better to enable us to chuse a proper representative, we had a right to consider the weight and nature of the duty he would have to encounter, and consequently to examine the conduct of the Members among whom he would be placed—it was a constitutional and a vital enquiry. Mr. Nelson's case was as follows—the Sheriff suffers one Burke a prisoner in execution to be brought to the Bar of the House by virtue of the Speaker's warrant.*—The plaintiff Mr. Vass of Halifax commences an action against the Sheriff, and because Mr. Nelson happens to be the plaintiff's agent here, he is thrown into Charlotte Town jail, and there kept for several days away from his business; from his family, and from his wife, whom he had very nearly lost by the affair; Mr. Binns happened to be the Attorney who issued the writ, he is brought to the Bar of the House of Assembly and examined as to his motives; I advised the action to be brought, and when I am in Judge Haviland's hall, entering his chambers with my brief in my hand in support of Mr. Nelson's application for a discharge under a Habeas Corpus, I am knocked on the shoulder by a man who tells me I am his prisoner, and who it appears was the messenger of the House of Assembly: I also was examined at the Bar of the House, where I avowed that I had advised the action. And the House of Assembly enters into a resolution to indemnify the Sheriff in the sum of blank

**This remark arose from an altercation between Mr. Nelson and the Attorney General.*

pounds, I take it from their printed journals, by which it does not appear whether the sum is to be three, or three hundred, or three thousand pounds.

Fortunately his Majesty's Council at last established their right of controul; for the exercise of which, though late, every honest man must feel indebted to them.

I said that the late Road System had been principally used as a cloak for jobbing: the former efficacy of the statute labour on the highways has been frittered and drawn away to new or convenient roads or bridges for the Commissioners' estates or houses; they diverge as the fan light sash of a gentleman's hall, from the centre of the base in all directions, and would direct a stranger to find the place from whence they sprang. The school money is jobbed, £50 annually, I have been told, was paid at John a Groat's house (Prince Town) for teaching grammar to one boy, the Speaker's nephew. We heard about fisheries, but what encouragement was held out, even at this beautiful situation, if a wharf had been built? If the fees of the settlers' grants had been remitted it might have shown something like an intention of offering encouragement.

The new paper currency, as I intimated, was in my opinion of the very most pernicious tendency, the moment it is known that a bank in England exceeds the certain means of punctually paying its pecuniary engagements, from that moment its credit and consequent capital must decrease. In March next our Treasury notes were to be paid, according to the construction which a superficial reader of the Treasury note bill might be inclined to attach to it. Our cash had vanished, and I asked from what funds were the means of payment to arise; it depended upon the solvency of the debtors to Government; *long coated mushroom gentlemen,*

many of whom, but the other day, would not be admitted into a *gentleman's* hall; *gentlemen* hanging on the skirts of other *gentlemen* of probably equal consequence in England; I noticed the downfall of the bubble banks there. Our treasury in 1825 was worth between four and five thousand pounds in cash and good securities. Store the dutiable articles until the importer can pay the duties as they do in England, and then we hold out no lure to induce merchants to overburthen themselves with ruinous personal obligations. The Treasury Note Act is a master piece of mechanism; by the 7th clause one would suppose the outstanding notes were all to be paid on the 24th day of March next, in gold or silver, but by the 5th clause the Lieutenant Governor is authorized by warrant under his hand (*without advice of Council*) to require the treasurer to re-issue notes, received at the Treasury, and the aforesaid 7th clause directs the payment of all outstanding notes out of the monies in the Treasury *when not specifically appropriated*; it out Herods Herod—its operation is indeterminable.

The mode of calling in the *recognizances* to the treasury, (*Bonds* they are ignorantly called) is highly improper; they should be paid in succession according to their dates; they should be enrolled in an office open to public inspection and search, as judgments and other incumbrances are, else who can buy land, or in fact pay with safety for any other property here?

The Attorney General denied that any threats had been used to keep back voters, this was contradicted by Mr. Chapple, who stated that Mr. Job Creed who was in debt to Mr. John Stewart, had been thus kept back by means of a letter written by Mr. Thomas Owen; Mr. Owen said he had never written a letter on the subject to Mr. Creed, and that he certainly had never written a letter to

any person containing *a threat* as to voting. After some contradiction had taken place, Mr. Creed was produced; he stated that he had received from Mr. George Aitkin a letter, which served him for his supper the night before the election, and his breakfast the next morning, for he could not eat since its receipt. With much difficulty he was prevailed on to produce the letter, and it is as follows:—

MR. GEORGE AITKIN,
Dear Sir,

The greatest exertion is making for Palmer in Charlotte Town—will you see Job Creed, and say it is necessary he should attend to vote for Lewellyn. Captain Stewart says he will never forgive him if he votes for Palmer: pray interest yourself in Lewellyn's favour: I will certainly return in time for the Election.

I am yours, truly,

THOS. OWEN.

11th August, 1827.

The Attorney General stated he had it from good authority that Creed had been threatened by Mr. M'Donald on the other side, Mr. M'Donald having been sent for at my request, required to know the Attorney General's author, who at last mentioned David Young, (here there was loud laughter), Young however was produced and denied the assertion in concurrence with Mr. Creed.

I commented on the crime of tampering with Electors, and endeavoured to explain the meaning of undue influence, and the Attorney General proceeded; he said that as to the money paid to his Excellency, we had been so plagued with needy Governors, that it became advisable to induce a gentleman of independent pecuniary circumstances to come here, and therefore he thought it better to make

it worth his while to do so; that as to the expenditures on Fanning's bank, they were for the advantage of all succeeding Governors; that the members of the Assembly had much trouble, and ought to be remunerated; that as to the £50 trip of Stewart's schooner it was not the House of Assembly, but the town Major who had agreed for it: that it was not yet determined that the House of Assembly had promoted an escape by sending for Burke to be examined at their bar; he denied that the road system had been turned to jobbing;—he travelled the country and he saw none of those *fan light* roads about the Commissioner's house—the improvement might have taken some money out of my pocket, but the highways had been rapidly improved since the last road act was passed; he had before now been nearly swamped with his horse on the road leading toward George Town.

The School Bill had an excellent effect. It was not intended to issue grants at George Town until the lots were improved:—And as to the paper currency, it was one of the best plans ever promoted in this Island, the surest proof of which, and it was conclusive, was this, that though the holders of Treasury notes may by the statute call for payment at the Treasury at a certain time, and if they do not obtain cash for them they may find them—viz. lodge them and receive 6 per cent upon them; nevertheless the public thought so highly of their present security, that not a single Treasury note had yet been funded; and as to the mode I had recommended, of calling for payment of recognizances according to the priority of their dates, he was of opinion that the treasury would be thereby precluded from pursuing the mode it present adopted; namely putting into suit, all recognizances executed by persons, discovered to be in insolvent circumstances.

The Attorney General said he had never, until the other day, heard in a public company of a petition for the dissolution of the House of Assembly, but the thing was insupportable upon the grounds there stated; for it called for a dissolution of the whole Government, inasmuch as the Council had agreed to the votes of the House of Assembly, complained of, and therefore the Lieutenant Governor must dismiss them, and his Excellency had sanctioned those votes and the issue of the money thereunder, and had passed the statutes complained of, and therefore he must *dismiss himself* if he complied with the prayer of the petition; the Attorney General concluded by offering his vote for Mr. Lewellyn: he said he had a good vote, and that he would swear it, but on the Bible being presented to him he declined to do so.

The returning officer is obliged to wait an hour for votes after every Proclamation made. The Attorney General spoke until the house ended, at which time Mr. Lewellyn had polled but four votes;—I begged my friends to decline voting, as we had a majority of three, and it would have made another hour's delay for each subsequent vote; some of my supporters were there at the table offering their votes, but we were soured with wet, and very well inclined to change our quarters, for which reason I declined to reply to the Attorney General's speech. Mr. James Bagwall commenced a very animated reply, by complimenting me on my conduct, while I had acted surveyor of highways;—when I first entered upon that service the population of the Island was about 5000—the produce of the Revenue was about £400 per annum, and therefore it would be found that proportionably with the physical strength of the Colony I had by far exceeded any of my successors; he had proceeded so far, but the returning officer having declared me duly elected, the popu-

place asserted their *privilege*, and I was soon off my feet. Some little sharp shooting occasionally took place; but I will venture to affirm that there was never an Election in this Island where such a keen opposition was patiently and uninterruptedly heard by such a large concourse of people. That evening we *drove out the wet* at Three Rivers, where the principal inhabitants shewed a competition of kindness and hospitality towards us, and the next day I had the pleasure of receiving a cannonading dinner from my friends in Charlotte Town, where the fourth sentiment drank was "A speedy dissolution of the House of Assembly."

As I declined to reply to the Attorney General at the Election, I hardly think it would be fair in me to do so now, and I shall only express my hope that the decorum which was observed there will operate as an instructive lesson at future elections in other places, particularly towards the *westward*.

If there is a crime that, viewing it constitutionally, depreciates man more than an other in society, it is that of using undue influence at elections.

One of the persons who voted against me declared publicly that he would tell as many lies as he could invent, to induce any man to vote as he wished at an election. I shall not mention his name, in the hope that he is already sufficiently ashamed of himself, or that some of his friends will reprove him, but I do most earnestly call on every man to set his face against such monstrous conduct, and in particular, I conjure landlords, agents, and merchants, to let their tenants or debtors go unshackled to the hustings. I am about to give my readers the copy of a letter, the original of

B.

which is, I believe, at the Colonial Secretary of State's office.

I give it as a *chef d'œuvre*.

To the Electors Inhabitants of Lot 34.

GENTLEMEN,

The County Election comes on at Charlotte Town on Monday the 6th instant, and as agent to Sir James Montgomery, and brothers and the friend of peace and good Government, anxious for the general happiness of the Island, I have earnestly to recommend, and solicit your votes and interest in behalf of your late Representatives, Messrs. Cambridge, Macaulay, Cameron, and Hyde. An opposition to them has been set up by Mr. Samuel Nelson, since he lost his election for Charlotte Town. The object of those who have brought Mr. Nelson forward is, to prevent the House of Assembly being unanimous in resisting the Ministerial project of giving our late Lieutenant Governor a pension, at the expense of the people of this Island, which was proposed to me in London, and which I resisted in behalf of the Island, not thinking it just that, after ten years' oppression and misrule of all kinds, that we should be taxed to give him a pension. This same Mr. Nelson had the audacity to say at the Charlotte Town Election, that we should all repent, before seven years, having signed the petitions to the King, for his removal, and did all in his power, while they were in a course of signature last year, to prevent every person he could influence, from taking part with the country, to obtain the removal of the intolerable grievances which the colony so long suffered.

I trust that your knowledge of me, and what I have done for the country, will induce you all on this occasion to support the interest of the gentlemen I have mentioned. I shall meet you all at the

poll, and if it is agreeable will go there at the head of the Electors of Lot 34.

I am, Gentlemen,

Always,

Your faithful humble servant,

J. STEWART.

Charlotte Town, 2d Dec. 1827.

Happy Island! possessed of such a *Liberalator*, who would take the trouble of appointing himself Colony Agent in England, *merely to treat with the Secretary of State*, and to *refuse his proposal* with indignation!

Thus it would appear from the Attorney General and Mr. Stewart's statements, that we *trade in Governors* at London, and it would be very ungrateful to doubt any thing that one hears at an Election.

I am now to treat of personal concerns; there are two charges recorded on the Journals of the House of Assembly, one against the present Speaker, the other against myself; *his* has many years' priority of mine, and therefore I shall mention it first.

By reference to the Journals of the 28th and 29th March, 1785, and the 2d of April following, it appears that Mr. Stewart is accused of inducing the clerk of the former house to alter its journals relating to a most interesting point, ten weeks after the dissolution of the House. The charge was brought forward by the late Judge Curtis; it was supported by the public examination on oath of Mr. Craig, late clerk of the House, and then one of its Members, containing 16 questions, and the like examination of Captain Stewart also as a member; in their places before the House, and by the production of the journals. It is fully stated in the Journals, and it appears also that Mr. John Stewart was in Charlotte Town at the time of his examina-

tion, and received and answered messages from the House upon the subject.

Mr. Curtis had his motives and reasons inserted in the Journals, by the unanimous permission of the House. The oath taken by the clerk of the House of Assembly, at the time of his appointment, is very particular, as to his care of papers and documents.

There are two modes of treating a subject—the one is by stating the facts and making no inference; the other is by making an inference from a fact not stated. I have adopted the former mode.

The second charge, namely, that against myself appears upon the Journals of the 23d March, 1825; 724 it is for misconduct as a Solicitor in Chancery, by advising a Receiver in that Court to adopt an improper mode of recovering rents in order to create enormous costs, during a number of years past, several persons are said to have been aggrieved, but not one of them has ever complained to the Court of Chancery, where I am and always have been ready to answer any sufficient charge, and where I must be tried by the established rules of equity practice. The notable honest fee act before mentioned has no reference to *Solicitors in Chancery*. I have proceeded under the constant orders of this Court which (and which alone) could have been effectually adopted under peculiar circumstances, that delicacy forbids me to detail here, inasmuch as they would reflect upon characters whom unavoidable necessity alone could justify me in implicating. I shall only say generally that I made an election as to practice which I was compelled to adopt, in order to meet the contrivance of an adversary, and my costs have been taxed and allowed by proper authority. If I am liable to a prosecution, the Law Officers are highly reprehensible, for declining to institute it, and I do not think they would

be very much disposed to favour me; they have had the advantage of legal opinions at Halifax, and from England, as it is said, and I have not been very remiss in my endeavours either to obtain an investigation or a dismissal of the affair. It is extremely disagreeable to me to publish the following letter (being one of many) addressed by me to his Excellency on the subject, but I apprehend that any person who reads it and chooses to understand it, will pretty well see the nature of the thing altogether.

Recess, 3d September, 1827.

SIR,

I am again under the necessity of imploring your Excellency's protection from the experimental attack which has been made against my professional conduct as a member of the Chancery Bar.

To see the jurisdiction of the Great Seal upheld in its purity in this Island has been my pride during a period of more than twenty years past; engaged in what is here termed extensive practice, and while I can with gratification review my conduct on every occasion that affected the constitutional basis and high character of the Court, I must from the same motive, and in the same degree, reprobate any attempt to sway that character, or colourfully encroach upon such hallowed ground, although I may be personally the object against whom such attempt has been directed. I hope I shall always conduct myself with due submission and respect to his Majesty's representative, but I also hope it may not be considered as inconsistent with that submission, when I state my opinion that a gentleman, long the senior of the Bar, should not be suffered to remain nearly three years subject to the attack of any wretch, who, being occasionally threatened in rapacious or disho-

nest views, may shelter himself behind a pendant inflammatory charge, which when preferred, was answered directly with firmness, promptitude and candor.

I offered a fair issue to my accusers—I courted no favour. I importuned your Excellency with perpetual entreaties for a decision. The Law Officers of Nova-Scotia were consulted upon the subject, and then, after the cloud had been hanging over me about nine months, I received hopes from the President of this Island that the matter would be constitutionally investigated—since when, four issuable law terms have elapsed, and no mention whatever has been made of it in any of his Majesty's Courts. The period of my existence in this life is frail and uncertain, and I already accuse myself of something not far short of pusillanimity as regards the preservation of that blood which has descended to me from a loyal and reputable ancestry, and which I am bound to transmit unpolluted, to our posterity; some of my opponents are far older than myself, and I am naturally anxious to see the cast when the game can be fairly played in our life time. The contrivance I complain of is calculated, and has been used with that mechanical talent peculiar to several characters in this Island for conjuring phantoms here, and impersonating them in England.

I must therefore (acknowledging the civility which I have always received from your Excellency) now entreat that I may be released from further persecution on the subject first alluded to, or (which would be far more congenial to my wish) that it shall be brought to a speedy, impartial, competent and constitutional investigation, where I may be called upon to an-

answer as an Englishman; and that I may be favoured with an early notification of your Excellency's commands on the occasion.

I have the honour to be,

Sir,

Your Excellency's most respectful and
Most obedient servant,

J. B. PALMER.

His Excellency Colonel Ready,
Lieutenant Governor, &c. &c. &c. }

To which his Excellency with his usual attention, was pleased to return the following answer:—

Government House, Sept. 7, 1827.

Sir,

I beg leave to acknowledge the receipt of your communication, which reached me on Tuesday, and I shall be glad to speak with you on the subject of its contents, whenever you come to Charlotte Town.

I have the honour to be,

Sir,

Your most obedient humble servant,

J. READY.

J. B. Palmer, Esq

His Excellency received me very politely on my return to town, and a long conversation on the subject terminated, by leaving me just where I was.

I hope that when the charge made against Mr. John Stewart comes to be enquired into, he will be able to shew that he has heretofore used as much diligence to court an investigation of it, as I have done in an affair of far less magnitude. I cannot go into the Court of Chancery or into the Supreme Court to prosecute myself, and I hope the public will see that I have not unnecessarily obtruded the

foregoing circumstances on their notice, and most particularly that his Excellency may not for a moment entertain a thought that I have used his title with levity or disrespect. I have merely endeavoured to discharge my duty to my profession, my family, and this Island, and I shall obstinately continue my efforts to do so.

J. B. PALMER.

Recess, Prince Edward Island,
October, 1827.

